

**GREGORY L. BOSSE, ESQ., State Bar No. 103641**  
**LAW OFFICES OF GREGORY L. BOSSE**  
**940 W. 17th Street, Suite F**  
**Santa Ana, California 92706**  
**(714) 550-9555 Telephone**  
**(714) 316-1344 Fax**  
**greg@lawbosse.com**

Attorneys for Defendant, RALPH E. SANDERS

**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION**

IN RE:

RALPH E. SANDERS,

Debtor,

LARNITA PETTE,

Plaintiff,

vs.

RALPH SANDERS,

Defendant.

Case No. 8:17-bk-10265-MW

Chapter 7

Adv. No. 8:17-AP-01068-MW

**NOTICE OF MOTION AND MOTION  
FOR ENTRY OF FINAL JUDGMENT  
ON FALSE OATH CLAIM  
PURSUANT TO FRCP 54(b)**

**DATE: November 13, 2019**

**TIME: 9:00 a.m.**

**DEPT: 6135/6C**

**PLACE: 411 West Fourth Street  
Santa Ana, CA 92701**

PLEASE TAKE NOTICE that on November 13, 2019, at 9:00 A.M. in Courtroom  
6135/6C of the above-entitled Court located at 411 West Fourth Street, Santa Ana, California

- 1 -

**NOTICE OF MOTION AND MOTION FOR ENTRY OF FINAL JUDGMENT ON  
FALSE OATH CLAIM PURSUANT TO FRCP 54(b)**


1 92701, Defendant, RALPH SANDERS, will move this Court for an Order granting final  
2 judgment on plaintiff's claim that Defendant, RALPH SANDERS, made a false oath pursuant  
3 to 11 U.S.C. section 727(a)(4)(A)(B).  
4

5 This Motion will be made pursuant to *Federal Rule of Civil Procedure* 54(b) on the  
6 grounds that there is no just reason for delay of entering judgment on fewer than all claims.  
7

8 This Motion shall be based upon this Notice, the attached Memorandum of Points and  
9 Authorities, the complete files and exhibits of this action, and such other and further oral and  
10 documentary evidence as may be presented at the hearing on this Motion.  
11

12 DATED: October 8, 2019

LAW OFFICES OF GREGORY L. BOSSE

13  
14  
15 

16 \_\_\_\_\_  
17 GREGORY L. BOSSE, ESQ.  
18 Attorney for Defendant,  
19 RALPH E. SANDERS  
20  
21  
22  
23  
24  
25  
26  
27  
28

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I.**

**STATEMENT OF FACTS**

Defendant, Ralph Sanders, filed his chapter 7 bankruptcy on January 25, 2017. Plaintiff filed her Amended Adversary Complaint against Defendant on May 8, 2017 with two (2) claims; 1) for violation of 11 U.S.C. 523(a)(6) for willful and malicious conduct; and 2) for violation of 11 U.S.C. § 727(a)(4)(A)(B) for making false oath(s) and false claims.

The Court, on June 3, 2019, filed and entered its Memorandum Decision and Order (“MDO”) that granted plaintiff, LARNITA PETTE’s (“Pette”) objection to discharge pursuant to 11 U.S.C. § 727(a)(4)(A)(B) for false oath(s) and false claims made by defendant, RALPH SANDERS (“Sanders”). The Court had stayed the objection pursuant to 11 U.S.C. 523(a)(6).

Sanders respectfully requests that the court now enter final judgment on the 11 U.S.C. § 727(a)(4)(A)(B) claim pursuant to Federal Rule of Civil Procedure 54(b) so that he may seek appellate review of the Court’s ruling without undue delay. Sanders has filed his opening brief with the United States Bankruptcy Appellate Panel of the Ninth Circuit (“BAP”) and it has issued a Clerk’s Order Re Finality. (See Exhibit 1)

**II.**

**LEGAL ARGUMENT**

Rule 54(b) provides that a court may enter final judgment on a single claim in an action with multiple claims “if the court expressly determines that there is no just reason for

1 delay.” The Court’s MDO on June 3, 2019 satisfies Rule 54(b)’s requirements, and there is no  
2 just reason to delay appellate review. Accordingly, Sander’s respectfully requests entry of  
3 final judgment pursuant to Rule 54(b) as to the 11 U.S.C. § 727(a)(4)(A)(B) claim.  
4

5 **I. Entry of Final Judgment under Rule 54(b) is Warranted.**

6 **A. The Court’s Adjudication of Plaintiff’s 11 U.S.C. § 727(a)(4)(A)(B)**  
7 **Claim is Final.**

8 When deciding to enter judgment under 54(b), “[a] district court must first determine  
9 that it is dealing with a ‘final judgment.’ It must be a ‘judgment’ in the sense that it is a  
10 decision upon a cognizable claim for relief, and it must be ‘final’ in the sense that it is ‘an  
11 ultimate disposition of an individual claim entered in the course of a multiple claims action.’”  
12 *Curtiss-Wright Corp. v. Gen Elec. Co.*, 446 U.S. 1, 7 (1980) (citation omitted).  
13

14 The Court’s MDO is a final adjudication of plaintiff’s claim that defendant made a  
15 false oath pursuant to 11 U.S.C. § 727(a)(4)(A)(B). The Court granted judgment to this claim  
16 and eliminated this claim. The other claim under 11 U.S.C. 523(a)(6) is intact, separate and  
17 distinct from the single claim at issue in the Court’s MDO. Hence the false oath claim is  
18 appropriate for entry of final judgment under Rule 54(b).  
19  
20

21 **B. There Is No Just Reason to Delay Entry of Final Judgment.**

22 Entry of judgment under Rule 54(b) “is proper if it will aid ‘expeditious decision’ of  
23 the case.” *Texaco, Inc. v. Ponsoldt*, 939 F.2d 294, 297 (9th Cir. 1992) If the Court does not  
24 grant final judgment on the false oath claim, the case will never end because adjudication of  
25 the remaining claim will never occur. Pette, the prosecuting plaintiff, has no need for another  
26 grant of an objection to discharge. One suffices. And since “the adjudicated claim is separable  
27  
28

1 from the others . . . the nature of the claim [is] such that no appellate court would have to  
2 decide the same issues more than once. *Wood v GCC Bend, LLC*, 422 F.3d 873, 878 n.2 (9<sup>th</sup>  
3 Cir. 2005).

4  
5 **III.**

6 **CONCLUSION**

7 For the foregoing reasons, Defendant requests that this Court enter final judgment  
8 pursuant to Rule 54(b) on plaintiff's 11 U.S.C. § 727(a)(4)(A)(B) claim.  
9

10  
11 DATED: October 8, 2019

**LAW OFFICES OF GREGORY L. BOSSE**

12  
13  
14 

15 **GREGORY L. BOSSE, ESQ.**

16 Attorney for Defendant,  
17 RALPH E. SANDERS  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**EXHIBIT 1**

Case: 19-1153, Document: 21, Filed: 09/27/2019

Page 1 of 2 **FILED**

SEP 27 2019

SUSAN M. SPRAUL, CLERK  
U.S. BKCY. APP. PANEL  
OF THE NINTH CIRCUIT

**UNITED STATES BANKRUPTCY APPELLATE PANEL  
OF THE NINTH CIRCUIT**

In re:	BAP No. CC-19-1153
RALPH E. SANDERS,	Bk. No. 8:17-bk-10265-MW
Debtor.	Adv. No. 8:17-ap-01068-MW
RALPH E. SANDERS,	
Appellant,	
v.	<b>CLERK'S ORDER RE FINALITY (Response Required)</b>
LARNITA PETTE,	
Appellee.	

This is an appeal from a memorandum of decision and order denying the discharge of debtor-appellant Ralph E. Sanders under 11 U.S.C. § 727 (a)(4)(A). Appellant filed an opening brief on September 9, 2019 and excerpts of the record on September 16, 2019. BAP Docket at 17 (Opening Brief) and 19 (Excerpts of the Record).

On September 26, 2019, appellee filed a motion for an extension of time to file the responsive brief. As explained below, appellee's obligation to file and serve a responsive brief will be extended until the resolution of a jurisdictional issue.

The following jurisdictional issue must be resolved at this time. The order on appeal appears interlocutory because it does not appear to fully and finally dispose of the underlying litigation. *Slimick v. Silva* (*In re*

*Slimick*), 928 F.2d 304, 307 (9th Cir. 1990). Specifically, the order on appeal does not address the claim for relief under 11 U.S.C. § 523(a)(6). See Bankruptcy Court Docket at 7 (Amended Complaint at 7-8) and 63 (Order Setting Adversary Proceeding For Trial on Second Claim for Relief).

No later than Friday, October 11, 2019:

- a. Appellant must request and obtain from the bankruptcy court either a judgment disposing of all claims and file with the BAP a copy of such judgment in the adversary proceeding, or a judgment containing an express determination pursuant to Federal Rule of Civil Procedure 54(b) that there is no just reason for delay in entering judgment on fewer than all the claims and file with the BAP a copy of such judgment or
- b. Appellant must file with the BAP a motion for leave to appeal explaining why the BAP should hear the above-referenced appeal before the full and final disposition of the entire adversary proceeding. See *Lompa v. Price (In re Price)*, 79 B.R. 888, 889 (9th Cir. BAP 1987), *aff'd*, 871 F.2d 97 (9th Cir. 1989).

Appellee's obligation to file and serve a responsive brief is hereby extended until FOURTEEN (14) days from the entry of an order resolving the jurisdictional issue.

Failure to comply with the requirements of this order may result in dismissal of this appeal without further notice to the parties.

FOR THE PANEL,

*Susan M. Spraul*

Susan M. Spraul, Clerk of Court



G M i l

Lynn Castro <lynn@lawbosse.com>

19-1153 Ralph Sanders v. Larnita Pette "Clerk order filed" (8:17-bk-10265-MW, Lead: 8:17-ap-01068-MW)  
1 message

BAPCA08Filings@ca9.uscourts.gov <BAPCA08Filings@ca9.uscourts.gov>  
To: lynn@lawbosse.com

Fri, Sep 27, 2019 at 3:01 PM

\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\* Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically. If receipt is required by law or directed by the filer, PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing.

U. S. Bankruptcy Appellate Panel for the Ninth Circuit

Notice of Docket Activity

The following transaction was entered on 09/27/2019 at 3:01:37 PM PDT and filed on 09/27/2019

Case Name: Ralph Sanders v. Larnita Pette  
Case Number: 19-1153  
Document(s): Document(s)

Docket Text:

Filed order ( Clerk: sms) : The following jurisdictional issue must be resolved at this time. No later than Friday, October 11, 2019: a. Appellant must request and obtain from the bankruptcy court either a judgment disposing of all claims and file with the BAP or b. Appellant must file with the BAP a motion for leave to appeal. Appellee's obligation to file and serve a responsive brief is hereby extended until FOURTEEN (14) days from the entry of an order resolving the jurisdictional issue. ; dated: 09/27/2019. ( see attached order) (VJ)

Notice will be electronically mailed to:

Gregory Bosse, Attorney  
Larnita Pette

Case participants listed below will not receive this electronic notice:

Larnita Pette  
2588 El Camino Real  
Carlsbad, CA 92008

The following document(s) are associated with this transaction:

Document Description: Main Document  
Original Filename: Sanders-19-1153.pdf

Electronic Document Stamp:

[STAMP stocfStamp\_ID=1108763481 [Data=09/27/2019] [FileNumber=516785-0]  
(6e75307d3e5fa1898172a4f47ecbab0f35db41ed1b1947c2e4ac80b8ac32db198804ce0c37e73c270ee84c7cb1226473ee7cf0331108901ccb9b5512d845e7)]

**PROOF OF SERVICE OF DOCUMENT**

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: **940 W. 17th Street, Suite F, Santa Ana, CA 92706**

A true and correct copy of the foregoing document entitled (*specify*): **NOTICE OF MOTION AND MOTION FOR ENTRY OF FINAL JUDGMENT ON FALSE OATH CLAIM PURSUANT TO FRCP 54(b)** will be served or was served (**a**) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (**b**) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **October 8, 2019**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

**Weneta M. Kosmala (TR) - wkosmala@kosmalalaw.com**  
**United States Trustee (SA) - ustpreion16.sa.ecf@usdoj.gov**

☐ Service information continued

**2. SERVED BY UNITED STATES MAIL:**

On **October 8, 2019**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

**Larnita Pette (ALSO VIA EMAIL)**  
**2588 El Camino Real, Suite F-195**  
**Carlsbad, CA 92008**

☐ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **October 8, 2019**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

**United States Bankruptcy Court (PERSONAL DELIVERY)**  
**Attn: Honorable Mark S. Wallace**  
**411 W. Fourth Street, Suite / Courtroom 6135/6C**  
**Santa Ana, CA 92701**

☐ Service information continued on

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

**October 8, 2019**

**LYNN CASTRO**

- 6 -

**NOTICE OF MOTION AND MOTION FOR ENTRY OF FINAL JUDGMENT ON  
FALSE OATH CLAIM PURSUANT TO FRCP 54(b)**